

**NATIONAL DEFENSE UNIVERSITY  
NATIONAL WAR COLLEGE**

**THE SENATE CTB TREATY REJECTION:  
PRUDENT STATESMANSHIP OR  
PARTISAN POLITICS?**

**COMMANDER CHARLES W. FOWLER III/ CLASS OF 2000  
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On August 11, 1995, President Clinton issued a statement from the White House announcing his decision to seek a zero-yield Comprehensive Test Ban Treaty (CTBT) designed to outlaw all nuclear weapon test explosions upon the treaty's entry into force. He called this goal "one of my Administration's highest priorities" and indicated that he was prepared "to lead the world" in a sustained effort to achieve the test ban."<sup>1</sup> Four years and two months later, in the wake of the Senate's stunning rejection of the CTBT, an editorial in *The Economist* observed: "The Senate's defeat of the Comprehensive Test Ban Treaty is a humiliation for the Clinton administration, a pyrrhic victory for the Senate and a disaster for America's foreign-policy-making process."<sup>2</sup>

What had gone wrong for the Clinton administration as this high priority issue slowly worked its way through the treaty ratification process? From the perspective of those in the executive branch, and much of the media, the rejection of the treaty was a manifestation of "militant isolationism" and "political partisanship" by opponents of the president. Certainly, the fact that Senator Helms "alluded to [Monica] Lewinsky on the Senate floor in his closing remarks against the test ban"<sup>3</sup> seems to support the case that partisan politics served as the prime motivator for Senate Republicans. In reality, the vote to reject the treaty was an act of prudent statesmanship on the part of 51 Senators exercising their constitutional powers of "advice and consent" in the treaty ratification process. As observed by Senator Kyl in the aftermath of the vote: "What today's treaty rejection does say...is that our constitutional democracy, with its shared powers and checks and balances, is alive and well."<sup>4</sup>

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<sup>1</sup> Bill Clinton, "Comprehensive test ban treaty," *U.S. Department of State Dispatch*, August 21, 1995, 650.

<sup>2</sup> "Bang!" *The Economist*, October 16, 1999, 29.

<sup>3</sup> Chuck McCutcheon, "Treaty Vote a Wake-up Call," *CQ Weekly*, October 16, 1999, 2436.

<sup>4</sup> *Ibid.*, 2435.

While partisan politics may indeed have contributed to the outcome, a close examination of the CTBT ratification process will demonstrate that most of 51 Senators who voted against the treaty did so because of their strong conviction that the treaty, in its present form, was harmful to American interests. Moreover, it is reasonable to speculate that had the Founding Fathers been present in the Senate Gallery during the treaty vote on October 13, 1999, they would have applauded the Senate's action and congratulated themselves on their decision to include "advice and consent" clauses in the Constitution. To understand why, it is necessary to review the treaty ratification process as prescribed by the Constitution, examine the negotiation phase of the treaty prior to its submission to the Senate, review the CTBT from the perspectives of the Clinton administration and Republican majority in the Senate, and identify those key factors which produced such a lopsided vote against ratification. First, a look at the historical legacy of the Constitution.

#### THE CONSTITUTION AND HISTORICAL PERSPECTIVE

Article II, Section 2 of the Constitution gives the president the power, "by and with the Advice and Consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." This key enumerated power was delegated to the president by the framers of the Constitution only after considerable debate on the relative powers of the different branches of government and after acceptance of the complex electoral college process pushed for by the small states:

As the small states now felt that they could have a substantial say in the choice of the president, they were willing to go along with the idea of strengthening him at the expense of Congress, especially in the Senate, where their strength lay. And this allowed the committee to embed in the Constitution the theory of separation of powers, which so many delegates had come to believe in.<sup>5</sup>

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<sup>5</sup> Christopher Collier and James Collier, *Decision in Philadelphia* (New York: Ballantine Books, 1986), 308.

What emerged after the long summer of debate in Philadelphia in 1789 was a strong executive possessing the power to make treaties; however, the convention delegates checked this power by requiring the consent of two-thirds of the Senate before any treaty became law. Thus the framers created, in effect, a shared partnership between the two branches built upon the distinctive competencies of each branch: for the presidency, “decision, activity, secrecy, and dispatch;”<sup>6</sup> “for Congress, democracy, deliberation, and the development of consensus. But, when substantive differences between the president and Congress...are sharp, each has the incentive under the Constitution to press its views upon the other.”<sup>7</sup>

In terms of process, after a treaty has been negotiated and signed by the various parties involved, the president formally submits the accord to the Senate for its consideration. It is entirely up to the president when to submit the treaty to the Senate. In fact, a president may wish to delay the submission to await a more favorable political climate or the results of an upcoming election cycle. This may have been a factor in the decision made by President Clinton to delay submission of the CTBT until September 1997, a year after he had signed the treaty and well after the November 1996 election.

After the president submits a treaty for ratification, hearings are usually held before the responsible Senate committees<sup>8</sup> before the treaty is brought to a floor vote before the entire Senate. After deliberation and debate if a two-thirds majority of the Senate votes to approve the treaty, it is subsequently sent to the president to be “proclaimed” before it becomes law. Conversely, the Senate may vote to reject the treaty (i.e., if it fails to get a favorable two-thirds

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<sup>6</sup> *The Federalist No. 70* (Hamilton), (New York: New American Library, August 1999), 392.

<sup>7</sup> Thomas E. Mann, *A Question of Balance: The President, the Congress, and Foreign Policy* (Washington: The Brookings Institution, 1990), 2.

<sup>8</sup> Usually the Senate Foreign Relations Committee although in recent years some treaties have been examined by the Senate Intelligence Committee and Senate Armed Services Committee.

vote) or to change the treaty by attaching amendments, reservations, or understandings.<sup>9</sup> In the case of the CTBT, the Senate chose to reject the treaty thereby removing it from consideration.

Additionally, it is the president's prerogative to appoint the treaty negotiating team, a seemingly minor issue but one with significant consequences for many previous treaties brought before the Senate. While it is generally accepted that the president or executive branch "makes" or negotiates treaties before submitting them to the Senate, the Constitution is not clear as to whether there is a role for the Senate to provide "advice and consent" during the negotiation process as well. As a consequence, different presidents have responded in different ways to the concept of involving the legislative branch in the making of treaties or in the making of foreign policy.

For example, in the case of the Treaty of Versailles, President Wilson chose not to include the Senate in any aspect of the negotiating process:

[Wilson] failed to consult congressional leaders while drawing up the [League of Nations] Covenant in Paris. He had gravely offended the Senate by refusing to appoint a member of that body, preferably a Republican member, to the peace commission.<sup>10</sup>

As a consequence, Senate Foreign Relations Committee Chairman Henry Cabot Lodge sent a telegram to President Wilson signed by thirty-seven Senators who stated their opposition to the League of Nations. "This was a clear ultimatum to Wilson from more than one-third of the Senate...the president ignored it."<sup>11</sup> Ultimately, the treaty went down to defeat.

Contrast Wilson's approach with that of Franklin Roosevelt and Harry Truman who learned the lessons of the Treaty of Versailles and worked hard to coordinate all major issues

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<sup>9</sup> As described in Cecil Crabb's book, *Invitation to Struggle*, "An *amendment* to a treaty changes its language and provisions, thereby probably requiring its renegotiation with the other parties to it. *Reservations* and *understandings* specify the American interpretation of its provisions." One of the provisions of the CTBT specifically precluded any reservations, thereby eliminating one means of compromise within the Senate or between the President and the Senate.

<sup>10</sup> Robert H. Ferrell, *American Diplomacy* (New York: W.W. Norton & Company, 1975), 493.

with Senators Connally and Vandenburg during the UN Charter Treaty negotiations. Moreover, Roosevelt invited Vandenburg, a Republican, and the entire the Senate Foreign Relations Committee to the White House to discuss policy implications associated with the treaty and subsequently named Senator Vandenburg as a delegate to the San Francisco Conference. At the conference, Leo Pasvolsky of the State Department discussed with the Senator the implications of his presence: “The big question in every foreign delegate’s mind will still be the same one that has plagued them in the past: What will the Senate do?”<sup>12</sup> Armed with this implied leverage, Senator Vandenburg “successfully invoked the Senate in disputes with his fellow American delegates, the Soviets, and the British.”<sup>13</sup> More importantly, with the support of Vandenburg, the UN treaty sailed easily through the Senate ratification process.

Since the end of World War II, legislators have frequently been involved both as participants and observers in the conduct of diplomatic negotiations but almost always at the invitation of the president. For example, the Carter administration attempted to win support for the SALT II Treaty by inviting “26 Senators, 14 Republicans and 12 Democrats, including supporters and critics...to sit in on the arms negotiations in Geneva.”<sup>14</sup> Today, with the precedent of legislative involvement firmly established, “the appointment of legislators as members of American negotiating teams is an accepted technique for creating bipartisan support for the nation’s foreign policy.” It appears somewhat surprising, therefore, that the Clinton administration ignored the lessons of the past and chose not to involve any members of the legislative branch in the making of the CTBT. Consequently, at this point, it would be

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<sup>11</sup> Ibid., 494.

<sup>12</sup> John Rourke, *Congress and the Presidency in U.S. Foreign Policymaking: A Study of Interaction and Influence, 1945-1982* (Boulder, Colorado: Westview Press, 1983), 20-21.

<sup>13</sup> Ibid., 21.

<sup>14</sup> Cecil Crabb and Pat Holt, *Invitation to Struggle* (Washington, D.C.: CQ Press, 1989), 235.

beneficial to review the process used by the Clinton administration in the negotiations leading to the CTBT.

## THE CLINTON APPROACH

Former Secretary of State Christopher, writing in September of 1996, observed that “President Clinton’s personal leadership played a key role in the success of the CTBT negotiations.”<sup>15</sup> Indeed, the president made a number of critical decisions necessary to move the CTBT concurrently through the executive branch interagency process as well as the multilateral international effort conducted under the auspices of the United Nations (UN). Beginning with his decision to extend the moratorium on U.S. nuclear testing in July 1993 to the decision to support a zero-yield test ban treaty in August 1995, the president “paved the way for resolution of one of the treaty’s central issues.”<sup>16</sup>

In fact, as the CTBT was worked through the interagency review and staffing process, a number of substantive issues threatened a unified executive branch position. As reported by Keeny Spurgeon of the Arms Control Association: “There was substantial opposition to the treaty by certain elements in the administration.”<sup>17</sup> For example, the Defense Department in the fall of 1994 pushed for a proposal that a party to the treaty may, at a review conference to be convened 10 years after the CTBT enters into force, “elect to withdraw from the treaty after giving other parties 180 days advance notice.”<sup>18</sup> A second proposal, offered in July 1995 by the Pentagon, to convert the CTBT into a threshold treaty “permitting nuclear tests with yields up to the equivalent of 500 tons (one-half kiloton) of conventional explosives,”<sup>19</sup> quickly drew fire

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<sup>15</sup> Warren Christopher, “The Comprehensive Test Ban Treaty: Strengthening Security for the U.S. and the World,” *U.S. Department of State Dispatch*, September 16, 1999, 461.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Arms Control Today*, “The signing of the Comprehensive Test Ban Treaty,” September 1996, 10.

<sup>18</sup> *Arms Control Today*, “Key issues unresolved as CTB negotiations adjourn,” October, 1999, 20.

<sup>19</sup> Keeny M. Spurgeon, “The CTB under fire,” *Arms Control Today*, July 1995, 2.



from arms control advocates, the Department of Energy (DOE), and the Arms Control and Disarmament Agency (ACDA). As reported by the Arms Control Association:

A White House meeting scheduled for June 23 to consider the Pentagon proposal was abruptly canceled when news of the event was met with a storm of domestic and foreign criticism. Despite the overwhelming evidence that testing is not required, the White House neither repudiated the proposal nor reaffirmed the existing U.S. position. Instead, administration officials obfuscated the issue...by underscoring that all options remained open.<sup>20</sup>

The Pentagon's objective in calling for the 500-ton threshold limit was to "assure the reliability and safety of the nuclear stockpile."<sup>21</sup> However, with the DOE concluding that "reliability and safety could be achieved by a science-based stewardship program,"<sup>22</sup> President Clinton quickly resolved the contentious issue *within the executive branch* when he announced his decision to support a zero-yield CTBT on August 11, 1995.

Multilateral negotiations proved to be problematic as well. Beginning with the UN General Assembly (UNGA) resolution of December 16, 1993, to support the multilateral negotiation of a CTBT, to the adoption of the CTBT by the General Assembly on September 10, 1996, the administration's negotiating team worked hard to advance the goals of a CTBT. The primary forum for detailed negotiations on the treaty was the Geneva Conference on Disarmament (CD) which met periodically from January 1994 to August 1996. As previously mentioned, there was no effort on the part of the administration to include any participation by members of the legislative branch in the negotiating process. "ACDA Director John Holum guided the negotiations for the United States in these discussions and overcame numerous objections to the treaty from the other nuclear weapon states, particularly China and the United

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<sup>20</sup> Ibid., 3.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

Kingdom...France and Russia.”<sup>23</sup> Nevertheless, the CD was never able to overcome the strong objections raised by India during the long course of negotiations.<sup>24</sup> As a consequence, CD Chairman Jaap Ramaker of the Netherlands announced on August 16, 1996, that “no consensus could be reached either on adopting the text of the CTBT or on formally passing it to the UN, due to Indian objections.”<sup>25</sup>

Faced with the apparent demise of the CTBT in Geneva, the Clinton administration strongly supported an Australian initiative to deliver the CTBT straight to the UN by sponsoring a resolution “seeking the endorsement from the UNGA on the CTBT and its opening for signature at the earliest possible date.”<sup>26</sup> After overcoming procedural objections raised by India and several other nations, the resolution passed the General Assembly on a vote of 158-3 on September 10, 1996.<sup>27</sup> Thus, the CTBT was formally opened for signature by the member nations; on September 24<sup>th</sup>, President Clinton signed the treaty for the U.S. in a ceremony covered by a large media contingent at UN Headquarters in New York City. The stage was now set for a ratification battle to take place between the executive and legislative branches in Washington, D.C.

#### ARGUMENTS FOR THE CTB TREATY

During his State of the Union address on January 27, 1998, President Clinton urged the Senate to give its advice and consent to ratification of the CTBT in the next legislative cycle. He proceeded to explain why he felt the treaty enhanced both U.S. and international

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<sup>23</sup> Arms Control Today, “The signing of the Comprehensive Test Ban Treaty,” September 1996, 10.

<sup>24</sup> Note that for the CTBT to enter into force, India, as a nuclear state, must ratify the treaty.

<sup>25</sup> Christopher, 463.

<sup>26</sup> Ibid.

<sup>27</sup> India, Bhutan, and Libya were the only three countries to vote against the CTBT in the General Assembly.

security: “By ending nuclear testing, we can help to prevent the development of new and more dangerous weapons, and make it more difficult for non-nuclear states to build them.”<sup>28</sup>

In a subsequent White House briefing on February 2, 1998, Robert Bell, Senior Director for Defense Policy and Arms Control at the National Security Council, expanded on the president’s comments and suggested seven reasons why the CTBT enhanced U.S. national security: first, the treaty allows the United States “to maintain a safe and reliable deterrent;”<sup>29</sup> second, the treaty constrains “vertical proliferation,” defined as the development of more advanced nuclear weapons by declared nuclear-weapon states; third, the treaty constrains “horizontal proliferation,” defined as the spread of nuclear weapons to states not currently in possession of nuclear weapons; fourth, the CTB “strengthens the nuclear Non-Proliferation Treaty” (NPT) regime and served as the specific *quid pro quo* used to entice nations to agree to an indefinite extension of the NPT in 1995; fifth, the CTB improves the ability of the U.S. to “detect and deter nuclear explosive testing;” sixth, “U.S. ratification will encourage other countries to ratify;” and finally, the CTB will establish “an international norm against testing” to constrain non-signatory nations from testing nuclear weapons.

The next day, on February 3, President Clinton made a high profile visit to the Los Alamos National Laboratory to witness a nuclear test simulation<sup>30</sup> and meet with the directors of the three DOE nuclear weapons laboratories. During a meeting with the press afterwards, the President noted that the directors “confirmed that we can meet the challenge of maintaining

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<sup>28</sup> Craig Cerniello, “Clinton urges Senate to act on CTB; Helms calls treaty low priority,” *Arms Control Today*, January/February 1998, 28.

<sup>29</sup> The same Craig Cerniello article cited in footnote 9 provides numerous quotations by Robert Bell in this paragraph.

<sup>30</sup> One alternative to nuclear weapon testing is science-based “stockpile stewardship,” which replaces large-scale tests with micro-explosions and supercomputer simulations. The Stockpile Stewardship and Management Program (SSMP) has been funded by Congress in recent years to determine if it is possible to ensure the safety and reliability of the American nuclear arsenal without nuclear testing. It is at present an open question with at least tens more years of development needed, according to some experts.

a nuclear deterrent under the Comprehensive Test Ban Treaty through the Stockpile Stewardship Program.”<sup>31</sup> He later noted that the CTBT was supported by the Chairman of the Joint Chiefs, General Shelton, and four former chairmen of the Joint Chiefs (Shalikashvili, Powell, Jones, and Crowe).<sup>32</sup>

That same day, Defense Secretary Cohen appeared before the Senate Armed Services Committee and urged quick Senate action on the CTB. Other executive branch officials were dispatched as well to help “sell” the treaty to the Senate and to the American people. Secretary of State Madeleine Albright noted “the national security benefits of the test ban in her February 10 statement before the Senate Foreign Relations Committee,”<sup>33</sup> while Secretary of Energy Pena delivered a speech on the CTB to the National Press Club on February 12<sup>th</sup>. How did the Senate Republicans respond to this first big push by the administration for treaty ratification?

In a letter to President Clinton dated January 21, 1998, Chairman of the Senate Foreign Relations Committee Jesse Helms stated that the CTB Treaty was “very low” on the committee’s list of priorities:

The treaty has no chance of entering into force for a decade or more. Article 14 of the [CTB Treaty] explicitly prevents the treaty’s entry into force until it has been ratified by 44 specific nations. One of those nations is North Korea, which is unlikely to ever ratify the treaty. Another of the 44 nations, India, has sought to block the treaty at every step.<sup>34</sup>

In this context, Senator Helms went on to state explicitly that the Senate Foreign Relations Committee would not take action on the CTBT until after it had considered and acted on three agreements related to the ABM Treaty and the Kyoto Protocol to the UN Convention on Climate Change. It is important to note that at this time none of the three agreements had been

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<sup>31</sup> Cerniello, 29.

<sup>32</sup> Note the Chairman and former JCS Chiefs supported the CTBT with 5 significant conditions.

<sup>33</sup> Ibid.

submitted to the Senate by the president. Regardless, more important issues related to the treaty soon emerged from concerned Republicans in the Senate.

#### ARGUMENTS AGAINST THE CTBT

As the time approached for a floor debate in the Senate, opponents of CTBT voiced concerns with three substantive issues: the issue of verifiability; the issue of enforceability; and finally, concerns over the reliability and security of the U.S. nuclear arsenal. First, on the issue of verifiability, Senator Richard Lugar expressed a concern that the U.S. is currently unable to detect explosions “below a few kilotons of yield,”<sup>35</sup> a fact that was later corroborated by CIA experts testifying before the Senate Armed Services Committee in the days preceding the treaty vote. Furthermore, the fact that on-site verification inspections must be approved by more than 30 of 51 members of the treaty’s executive council and that signatory countries can declare 50-square kilometer areas “off limits” to inspectors produced additional concerns over the verification process.

Regarding enforcement, most Senate Republicans readily questioned administration arguments that the CTBT and its sanctions would inhibit the spread of nuclear weapons. Senator Lugar again framed the issue: “Given that multinational sanctions against Iraq are ineffectual and difficult to maintain, would sanctions be enforced against a nation--say India--of large commercial importance?”<sup>36</sup> Others, such as Senator Roberts of the Senate Armed Services Committee, took a different stance in opposition: “This treaty will not stop or slow down the development of nuclear weapons if a nation deems these weapons as vital to their

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<sup>34</sup> Ibid.

<sup>35</sup> George F. Will, “Politics and the Test Ban Treaty,” *Newsweek*, October 25, 1999, 96.

<sup>36</sup> Ibid., 97.

national interests.”<sup>37</sup> Clearly, Senator Roberts had in mind rogue states such as Iraq, North Korea, and Iran that seldom adhere to “international norms, and other states such as Pakistan and India.

On the issue of maintaining the reliability of the nation’s nuclear arsenal, opponents of the CTBT have expressed concerns going back to 1997 over the administration’s exclusive reliance on the Stockpile Stewardship and Management Program (SSMP). For example, during testimony before the Senate Governmental Subcommittee on International Security, Proliferation and Federal Services, former Secretary of Defense and Energy James Schlesinger challenged the assertion that the SSMP is a viable alternative to nuclear testing. He stated:

...confidence in the reliability of the U.S. nuclear stockpile will inevitably decline over the next several decades if the Senate approves the CTB Treaty. U.S. nuclear weapons will be vulnerable to the effects of aging...and there is no substitute for nuclear testing.<sup>38</sup>

Schlesinger went on to express a specific concern with the permanent nature of the CTBT and its ban on low yield nuclear tests, parroting an argument made by the Pentagon during the interagency battles. This view was supported by Henry Kissinger who noted in a recent article that the computers envisioned to complete the nuclear simulations would not be available for almost another decade and that the “directors of the weapons laboratories, who were supposed to administer these tests, were highly ambivalent in their testimony before the Senate Armed Services Committee.”<sup>39</sup>

Finally, during the actual debate on the floor of the Senate, Senator Lugar pointed out one of the major flaws in the treaty: “Russia believes hydro-nuclear activities and sub-critical

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<sup>37</sup> Miles Pomper, “Treaty Rejection Casts a Shadow Over Non-Proliferation Efforts in Asia,” *CQ Weekly*, October 16, 1999, 2437.

<sup>38</sup> Craig Cerniello, “Senate panels begin hearings on CTB treaty and stewardship,” *Arms Control Today*, October 1997, 32.

<sup>39</sup> Henry Kissinger, “Playing Politics with the Test Ban Treaty,” *The Washington Post*, November 24, 1999, A24.

experiments are permitted under the treaty. The U.S. believes sub-critical experiments are permitted but hydro-nuclear tests are not. Other states believe both are illegal.”<sup>40</sup> George Will, reflecting on Lugar’s point that the treaty did not even define what a nuclear test was, made an astute observation:

U.S. negotiators might have been able to hold out for elimination of such dangerous ambiguity, but they were under pressure to produce a treaty in time for a United Nations signing ceremony before the 1996 election. The ceremony was 42 days before the [presidential] election.<sup>41</sup>

Perhaps George Will discerned the true reason why the administration chose not to include the legislative branch in the negotiations of 1995-1996. Regardless, the “politicized” presidential signing ceremony of late September 1996 was not missed by Senate Republicans.

Returning to the key question whether the Senate vote on CTBT reflected partisan politics or prudent statesmanship, it is difficult to support the president’s charge that “partisan politics” convinced Senate Republicans such as Lugar, Warner, Stevens, Snowe, Lott, and Domenici to vote against the CTBT. After all, these Senators had all supported every arms control and chemical weapon treaty submitted to the Senate during the past three administrations. Moreover, during a recent June 1999 poll of American voters, the results revealed that “82 percent of those surveyed back a test ban.”<sup>42</sup> It is simply counter-intuitive for the Republicans to reject a treaty supported by 82 per cent of the American people unless there were substantive issues behind the rejection. Why else would they run such a political risk?<sup>43</sup> It is reasonable to suggest, therefore, that other factors were involved in the Senate vote.

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<sup>40</sup> Will, 96.

<sup>41</sup> Ibid.

<sup>42</sup> CQ Weekly, “Senators to Seek Vote on Nuclear Test Ban Treaty,” *CQ Weekly*, July 24, 1999, 1814.

<sup>43</sup> Indeed, Democratic presidential Al Gore immediately pounced on the issue by running campaign ads assailing Senate Republicans for their CTBT vote.

After examining all of the facts, it is clear that several other factors combined to influence the votes of 51 Senators. First, ignoring the lessons of history, the administration specifically chose to exclude the legislative branch from the negotiating process. Second, the administration made the political decision to time the signing of the treaty during an intense political period in the weeks prior to a general election, again without any input from the legislative branch on the substance of the treaty.

Third, after submitting the treaty to the Senate for ratification, the administration pushed occasionally for ratification over the next two years but made no effort whatsoever to address several substantive issues raised both by experts in the field and influential Senators; in effect, the Senate was arrogantly given a “take it or leave it” ultimatum from a White House confident in its ability to take the issue to the American people if need be. One senior Senator, highly respected for a non-partisan approach to foreign affairs, emphasized this point recently when he observed: “During the past two years I have not had a single visitor from the administration on this issue.”<sup>44</sup>

Fourth, a close examination of the treaty revealed several significant flaws which deeply concerned key Senators and experts from across the political spectrum. As Henry Kissinger pointed out, “it is absurd to blame the Senate vote on an isolationist cabal when six former secretaries of defense, four former national security advisers and four former CIA directors (including two appointed by President Clinton) ... myself included, refused to endorse it.”<sup>45</sup> For the Senate Republicans, they were clearly on “the horns of a dilemma,” being pressured to act on a politically popular, badly flawed treaty not in the best interests of the United States. While it is true that Senate Majority Leader Trent Lott was motivated by

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<sup>44</sup> Comment made during a recent address to students from the National War College on December 2, 1999.

<sup>45</sup> Kissinger, 29.



political considerations when he decided to bring the treaty to the floor of the Senate in October 1999, knowing that he had the votes to defeat the treaty and anxious to avoid an election year issue in 2000, by doing so he outfoxed Senate Democrats who had spent much of 1998 and 1999 insisting that the Republicans deliver the treaty to the floor of the Senate for a vote.

When the treaty was sent to the floor for consideration and debate, the administration and Senate Democrats suddenly found themselves short on votes, short on time, and no bipartisan basis for any kind of compromise. Perhaps the administration miscalculated in its political calculus that once the Senate was confronted with an actual vote, “undecided senators will have to face the fact that public opinion, editorial commentary and knowledgeable experts overwhelmingly support the treaty.”<sup>46</sup> Regardless, in the end, 51 Senators voted on the merits of the treaty and it went down to a resounding defeat. Madison, Hamilton, Morris and the rest of the Founding Fathers who had fought for the advice and consent clause and the principle of separation of powers in 1789 would have been pleased with the prudent statesmanship displayed by the Senate in October 1999.

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<sup>46</sup>Spurgeon Keeny, “Send Senate CTB treaty now,” *Arms Control Today*, May 1997, 2.

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